

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

**United States District Court
Southern District of Texas
FILED**

JUL 22 2004

**Michael N. Milby
Clerk of Court**

CHERYL GRAY, ET VIR
Plaintiffs,

VS.

WYETH, ET AL
Defendants.

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CIVIL ACTION NO.

~~B-04-166~~
B-04-116.

MOTION FOR CONTINUANCE
(Defendants not yet served)

COMES NOW Plaintiff, Cheryl Gray and files this Motion for Continuance and, in support thereof, would respectfully show:

RELIEF REQUESTED

The Court should grant a continuance of the initial pretrial and scheduling conference scheduled August 3, 2004 as set forth in the Order For Conference And Disclosure Of Interested Parties.

GROUND FOR RELIEF

1. This is a complex pharmaceutical product liability case. Plaintiff, Cheryl Gray, contends that she developed breast cancer as a result of her use of various prescription hormone therapy medications manufactured and/or distributed by Defendants. Plaintiff's complaint was filed approximately July 7, 2004. Plaintiff is in process of sending each Defendant a Notice of Lawsuit and Request for Waiver of Service of Summons and will file return proof of service with the District Clerk. At the date of this motion, no Defendant has been served and none are expected to be served for approximately thirty (30) days.

2. Further, the medications at issue have long histories and the causation analysis involving these medications and Plaintiff's injuries have not previously been addressed by a court. A MDL proceeding in the Eastern District of Arkansas, (MDL No. 1507, Master Docket

No. 4:03-CV-01507, "Prempro Product Liability Litigation,") contains numerous similar cases that involve the same medications, injuries, and defendants at issue in this case. Plaintiff will soon notify the MDL of this case as a "tag along" action and seek transfer to the MDL.


3. Further, Plaintiff requests an opportunity to seek an Agreed Scheduling Order with Defendants once served that parallels the MDL pre-trial and discovery proceedings to allow cost-effective coordination with similar cases. Defendants' document production alone is expected to consist of millions of documents.

CONCLUSION

WHEREFORE, premises considered, Plaintiff prays that the Court should continue the initial pretrial and scheduling conference set forth in the Order For Conference And Disclosure Of Interested Parties.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion for Continuance was forwarded on this the 21st day of July, 2004 by way UPS ground and included with Plaintiff's Notice of Lawsuit and Request for Waiver of Service of Summons to:

Agents for Service of:

| | |
|------------------------|---------------------------------|
| Wyeth | (The Prentiss-Hall Corporation) |
| Wyeth Pharmaceuticals | (The Prentiss-Hall Corporation) |
| Pharmacia & Upjohn Co. | (The Corporation Trust Company) |
| Pfizer, Inc. | (The Corporation Trust Company) |
| Barr Pharmaceuticals | (Corporation Service Company) |
| Bristol-Myers Squibb | (The Corporation Trust Company) |
| Solvay Pharmaceuticals | (The Prentiss-Hall Corporation) |
| Greenstone, Ltd. | (The Corporation Trust Company) |
| Warner Chilcott | (The Corporation Trust Company) |


Steve Faries